



ATTORNEY GENERAL OF MISSOURI  
ERIC SCHMITT

September 2, 2021

Mayor Quinton Lucas  
City Hall  
414 E. 12th Street  
Kansas City, Missouri 64106  
c/o Tara Kelly, [Tara.Kelly@kcmo.org](mailto:Tara.Kelly@kcmo.org)

Dear Mayor Lucas:

On August 19, 2021, the City Council of Kansas City passed a mask mandate upon persons within Kansas City, Missouri. *See* Ordinance No. 210694. Section 3.B.2 of Ordinance No. 210694 states in pertinent part the following:

Section 3.B “Exceptions to the face covering or mask requirement include: ...

2. Persons who have *disabilities* where face coverings or masks constitute *a substantial impairment to their health and well-being* based upon medical, behavioral, or *legal direction*,”

(Emphases added). The new ordinance does not define the terms “disability,” “substantial impairment to their health and well-being,” or “legal direction.” Missouri law provides meaningful guidance in this regard.

*First*, under Missouri’s Dictionary Act, the term “disability” includes minors, *i.e.*, “persons within the age of minority.” § 1.020, RSMo. Section 1.020 provides the default meaning for words and phrases used in statutes and ordinances throughout the State. *See id.* Section 1.020(19) provides that persons under “legal disability” include “persons within the age of minority or of unsound mind or imprisoned.” § 1.020(19), RSMo. The subsequent reference to “*legal direction*” later in the same sentence of the Ordinance, moreover, directly confirms that *legal* disabilities are included within the reference to “disabilities,” as § 1.020(19) requires. Thus, based on ordinary

principles of interpretation, the exception for persons under disability in Section 3.B.2 of Ordinance No. 210694 extends to minors, *i.e.*, persons under the age of eighteen.<sup>1</sup>

*Second*, in the absence of a statutory or ordinance definition, the phrase “substantial impairment to their health and well-being” in Section 3.B.2 must be construed according to its ordinary and natural meaning, as found in the dictionary. *See, e.g., Mantia v. Mo. Dep’t of Transportation*, 529 S.W.3d 804, 809 (Mo. banc 2017). “Substantial” means “considerable in amount, value, or worth.” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 2280 (2002). “Impair” means “to make worse: diminish in quantity, value, excellence, or strength: do harm to: damage, lessen.” *Id.* at 1131. “Health” means “flourishing condition: *well-being*, vitality, prosperity.” *Id.* at 1043 (emphasis added). And “well-being” means “a condition characterized by happiness, health, or prosperity: moral or physical welfare.” *Id.* at 2595. Thus, based on the plain and ordinary meaning of the ordinance, any person under disability—including any minor under the age of eighteen—who experiences any significant diminishment of their happiness, health, or mental or physical welfare, as a result of mask-wearing, has suffered “a substantial impairment to their health and well-being” within the meaning of Section 3.B.2 of the ordinance.

There is abundant evidence that many—even most—minors experience just such impairments to their well-being from mask-wearing over long periods, such as during school hours. *See, e.g.,* WORLD HEALTH ORG., ADVICE ON THE USE OF MASKS FOR CHILDREN IN THE COMMUNITY IN THE CONTEXT OF COVID-19, at 2 (2020); Silke Schwarz et al., *Coronakinderstudien co-Ki: Erste Ergebnisse Eines Deutschlandweiten Registers zur Mund-Nasen-Bedeckung (Maske) bei Kindern*, 169 MONATSSCHRIFT KINDERHEILKUNDE 353, 355 (2021); Jonas F. Ludvigsson, Opinion, *Little Evidence for Facemask Use in Children Against COVID-19*, 110 ACTA PEDIATRICA 745, 745 (2021). For example, the Schwarz study cited above surveyed parents of 25,930 schoolchildren, who wore masks at school for average 270 minutes (4 hours and 30 minutes) per day. Schwarz et al., at 3. “Of the respondents 68% reported that children complained about *impairments* caused by wearing the masks.” *Id.* (emphasis added). These “impairments” included “irritability (60%), headache (53%), difficulty concentrating (50%), less happiness (49%), reluctance to go to school/kindergarten (44%), malaise (42%), impaired learning (38%), and drowsiness/fatigue (37%).” *Id.* Any or all of such impairments identified in this study—or any similar adverse impacts on a minor’s happiness, health, or mental or physical welfare—constitute “a substantial impairment to the health and well-being” of a minor within the plain and ordinary meaning of Section 3.B.2 of Ordinance 210694.

*Third*, the ordinance does not define “legal direction,” so once again, the phrase must be interpreted in accord with its plain meaning found in the dictionary. *Mantia*, 529 S.W.3d at 809. “Legal” means “of or relating to law,” WEBSTER’S THIRD, at 1290, and “direction” means

---

<sup>1</sup> The analysis of “disability” in this letter excludes any reference to “disability” as defined in Chapter 213, RSMo, or any statute outside the scope of this legal direction.




“guidance or supervision of an action, conduct, or operation,” *id.* at 640. “Legal direction,” therefore, includes guidance relating to the meaning and application of the law. *Id.* The ordinance does not specify *who* is to provide Kansas City residents with such “guidance” “of or relating to [the] law,” *id.*, but once again, Missouri law provides a clear and helpful answer. The Attorney General of Missouri is the chief legal officer of the State of Missouri. He is authorized to “institute, in the name and on the behalf of the state, all civil suits and other proceedings at law or in equity requisite or necessary to protect the rights and interests of the state, and enforce any and all rights, interests or claims against any and all persons, firms or corporations in whatever court or jurisdiction such action may be necessary; and he may also appear and interplead, answer or defend, in any proceeding or tribunal in which the state’s interests are involved.” § 27.060, RSMo. The Attorney General “speaks for the State of Missouri” on legal questions, and “[i]n his role as attorney for the State, the attorney general represents the State of Missouri and its citizens....” *State ex rel. Nixon v. Am. Tobacco Co.*, 34 S.W.3d 122, 135 (Mo. banc 2000). When it comes to providing legal direction on matters of public import, “[t]he State of Missouri and its citizens are the attorney general’s clients....” *Id.* “If public justice and individual rights were likely to suffer” for want of such legal direction, “the courts would struggle hard to find authority for the attorney general to intervene in the name of the people.” *Id.* (quoting *State ex rel. McKittrick v. Mo. Pub. Serv. Comm’n*, 175 S.W.2d 857, 864-65 (Mo. banc 1943)). Thus, the State’s elected Attorney General is qualified to provide “legal direction” to residents of Kansas City about the meaning and application of this ordinance.

For the reasons set forth above, as Missouri’s elected Attorney General, I hereby provide legal direction to all residents and visitors to the City of Kansas City subject to Ordinance No. 210694. I direct that any resident or visitor subject to any physical or legal disability—including any minor under the age of 18—is exempt from the mask-wearing mandate under Section 3.B.2 of the ordinance, provided that he or she (or a parent or guardian, in the case of minors) believes that wearing a mask or face covering will have any significant adverse impact on their personal, mental, or physical welfare. It is also the legal direction of my office that face coverings or masks constitute “a substantial impairment to ... health and well-being” for minors, especially for young children, as medical studies have concluded. As a result, all children under 18 and all adults with a disability so defined above qualify for the exemption contained in Ordinance No. 210694, Section 3.B.2. To that end, in keeping with my statutory authority, I also provide this “legal direction” to you in your capacity as Mayor of a political subdivision of the State of Missouri.

Enclosed is a summary of this legal direction that you may post at your office.

Very truly yours,

  
Eric S. Schmitt